

may work closely with the State in advertising, reviewing bids and recommending a Technical Advisor, and managing the Technical Advisor. The State will make the final selection of the technical advisor. A State that elects this option becomes directly responsible for awarding the technical assistance contracts, submitting financial and progress reports, and for disbursing all TAG funds in compliance with applicable EPA regulations and requirements.

**§ 35.4020 Responsibility requirements.**

(a) An applicant must meet the minimum administrative and management capability requirements 40 CFR 30.301. Thus each applicant must demonstrate that it has established reliable procedures or has plans for establishing reliable procedures for record-keeping and financial accountability related to the management of the TAG. These procedures must be in effect before the recipient incurs any costs. If EPA concludes that the applicant is not capable of meeting the responsibility requirements, the application will be rejected.

(b) Each recipient of a TAG must be incorporated as a non-profit organization for the purpose of addressing the Superfund site for which the grant is provided in order to receive a grant, except as provided in paragraph (c) of this section. At the time of award, a recipient must either be incorporated or must demonstrate to EPA that the group has filed the necessary documents for incorporation with the appropriate State agency. No later than the time of the first request for reimbursement for costs incurred, a recipient must submit proof to EPA that the group has been incorporated by the State.

(c) Unless a consolidation agreement makes site-specific incorporation necessary, a previously incorporated group that includes all the individuals and groups that joined in applying for the TAG shall not be required to reincorporate for the specific purpose of representing affected individuals at the site provided that the group can demonstrate that it has a substantial history of involvement at the site.

**§ 35.4025 Eligible applicants.**

Eligible applicants, except as provided in § 35.4030, are any group of individuals that may be affected by a release or a threatened release at any facility that is listed on the NPL or is proposed for listing under the NCP and at which a response action has begun.

**§ 35.4030 Ineligible applicants.**

(a) Potentially responsible parties (PRPs) are ineligible to receive or be represented in groups receiving or using TAGs.

(1) No group established or sustained by a PRP shall be eligible for a TAG.

(2) No group that receives services provided by or paid for by a PRP shall be eligible for a TAG.

(3) For an applicant to obtain a grant it must establish an identity separate from that of an entity that is ineligible under § 35.4030 (a)(1) or (2) by making a reasonable demonstration of independence from the ineligible entity. Such a demonstration requires, at a minimum, a showing that the applicant has a formal legal identity (e.g., officers) and a substantive existence, including finances, separate and distinct from that of the ineligible entity.

(b) The following groups and organizations are also ineligible to receive or be represented in groups receiving or using TAGs.

(1) Corporations that are not incorporated for the specific purpose of representing affected individuals at the site except as provided in § 35.4020(c);

(2) Academic institutions;

(3) Political subdivisions (e.g., townships and municipalities); and

(4) Groups established or presently sustained by ineligible entities under § 35.4030 (b) through (c) (including emergency planning committees and citizen advisory boards who may be precluded from acting independently).

(c) This section shall not preclude any individual affected by a Superfund site from participating in a recipient group in his or her capacity as an individual. However, an individual whose financial involvement in a PRP (as other than an employee or contractor) is determined by the Award Official to be sufficiently substantial may be precluded from participation in a recipient group in any capacity.